

REQUIREMENTS FOR A SUBCONTRACTING PLAN

(NOTICE OF REQUIREMENTS FOR CONTRACTUAL SMALL AND SMALL DISADVANTAGED BUSINESS [SB/SDB] SUBCONTRACTING PLAN)

(These requirements do not apply to small businesses.)

I. GENERAL

- A. By submitting an offer or bid in response to this solicitation, the offeror acknowledges that it is aware of the requirements in this provision to submit (if the proposed work offers subcontracting possibilities) a contractual plan to include the elements set forth in the provision below entitled "Small Business and Small Disadvantaged Business Subcontracting Plan" consistent with the terms and value of the contract to be awarded, if any.
- B. The offeror further acknowledges that it is aware that failure of the selected offeror to comply in good faith with any small business and small disadvantaged business subcontracting plan required to be submitted for any resultant contract, shall be a material breach of the contract.

II. REQUIREMENTS FOR PROPOSALS

Offerors/bidders are to provide information regarding subcontractors to the extent requested in the solicitation.

III. REQUIREMENTS FOR A COMPREHENSIVE CONTRACTUAL PLAN

Within the time specified by the JPL negotiator, the selected Contractor(s) shall submit to the JPL Negotiator a comprehensive subcontracting plan in accordance with the provision below entitled "Small Business and Small Disadvantaged Business Subcontracting Plan."

**SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS
SUBCONTRACTING PLAN**

- (a) This provision does not apply to small business concerns.
- (b) Definitions.
 - (1) "Commercial product," as used in this provision, means a product in regular production that is sold in substantial quantities to the general public and/or industry at established catalog or market prices. It also means a product which, in the opinion of the JPL negotiator, differs only insignificantly from the Contractor's commercial product.
 - (2) "Subcontract," as used in this provision, means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.
- (c) The offeror, upon request by the JPL negotiator, shall submit and negotiate a subcontracting plan, where applicable, which separately addresses subcontracting with small business concerns and with small disadvantaged business concerns. A contract plan must also have a separate part for the basic contract and separate parts for each option (if any). The plan shall be deemed to be included as a part of any resultant contract. The subcontracting plan shall be negotiated within the time specified by the JPL Negotiator.
- (d) The offeror's subcontracting plan shall include the following:
 - (1) Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business concerns and small disadvantaged business concerns as subcontractors. The offeror shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs.
 - (2) A statement of:
 - (A) Total dollars planned to be subcontracted;
 - (B) Total dollars planned to be subcontracted to small business concerns;
 - (C) Total dollars planned to be subcontracted to small disadvantaged business concerns.
 - (3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to (i) small business concerns and (ii) small disadvantaged business concerns.
 - (4) A description of the method used to develop the subcontracting goals in paragraph (1) above.

- (5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the Procurement Automated Source System (PASS) of the Small Business Administration, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small and small disadvantaged business concerns trade associations).
- (6) A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with (i) small business concerns and (ii) small disadvantaged business concerns.
- (7) The name of the individual employed by the offeror who will administer the offeror's subcontracting program, and a description of the duties of the individual.
- (8) A description of the efforts the offeror will make to assure that small business concerns and small disadvantaged business concerns have an equitable opportunity to compete for subcontracts. The Contractor will also ensure that HBCUs, OMUs, and MIs are provided similar opportunities.
- (9) Assurances that the offeror will include the Article from the JPL General Provisions entitled 'Utilization of Small Business Concerns and Small Disadvantaged Business Concerns' in all subcontracts (excluding fixed-price subcontracts for commercial items or services) that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) who receive subcontracts which offer subcontracting possibilities and are in excess of \$500,000 (\$1,000,000 for construction of any public facility), to adopt a plan similar to the plan agreed to by the offeror
- (10) Assurances that the offeror will (i) cooperate in any studies or surveys as may be required, (ii) submit periodic reports in order to allow the Government and JPL to determine the extent of compliance by the offeror with the subcontracting plan, (iii) submit Standard Form (SF) 294, "Subcontracting Report for Individual Contracts," and (iv) ensure that its subcontractors agree to submit Standard Form 294.
- (11) A recitation of the types of records the offeror will maintain to demonstrate procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of its efforts to locate small and small disadvantaged business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):
 - (A) Source lists, guides, and other data that identify small and small disadvantaged business concerns.
 - (B) Organizations contacted in an attempt to locate sources that are small or small disadvantaged business concerns.
 - (C) Records on each subcontract solicitation resulting in an award of more than \$100,000, indicating:

- (i) Whether small business concerns were solicited and if not, why not;
 - (ii) Whether small disadvantaged business concerns were solicited and if not, why not; and
 - (iii) If applicable, the reason award was not made to a small business concern.
 - (D) Records of any outreach efforts to contact:
 - (i) Trade associations;
 - (ii) Business development organizations; and
 - (iii) Conferences and trade fairs to locate small and small disadvantaged business sources.
 - (E) Records of internal guidance and encouragement provided to buyers through:
 - (i) Workshops, seminars, training, etc.; and
 - (ii) Monitoring performance to evaluate compliance with the program's requirements.
 - (F) On a contract-by-contract basis, records to support award data submitted by the offeror to JPL, including the name, address, and business size of each subcontractor. Contractors having company or division-wide annual plans need not comply with this requirement.
- (e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:
- (1) Assist small business and small disadvantaged business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor's lists of potential small business and small disadvantaged subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.
 - (2) Provide adequate and timely consideration of the potentialities of small business and small disadvantaged business concerns in all 'make-or-buy' decisions.
 - (3) Counsel and discuss subcontracting opportunities with representatives of small and small disadvantaged business firms.
 - (4) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small business or small disadvantaged business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the Contractor's subcontracting plan.

- (f) A master subcontracting plan on a plant or division-wide basis which contains all the elements required by paragraph (d) above, except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeror by this Provision; provided:
 - (1) The master plan has been approved;
 - (2) The offeror provides copies of the approved master plan and evidence of its approval to the JPL Negotiator; and
 - (3) Goals and any deviations from the master plan deemed necessary by the JPL Negotiator to satisfy the requirements of the JPL contract are set forth in the individual subcontracting plan.
- (g)
 - (1) If a commercial product is offered, the subcontracting plan required by this Provision may relate to the offeror's production generally, for both commercial and noncommercial products, rather than solely to the JPL contract. In these cases, the offeror shall, with the concurrence of the JPL Negotiator, submit one company-wide or division-wide annual plan.
 - (2) The annual plan shall be reviewed for approval by the agency awarding the offeror its first prime contract requiring a subcontracting plan during the fiscal year, or by an agency satisfactory to the JPL Negotiator.
 - (3) The approved plan shall remain in effect during the offeror's fiscal year for all of the offeror's commercial products.
- (h) Prior compliance of the offeror with other such subcontracting plans under previous contracts may be considered by the JPL Negotiator in determining the responsibility of the offeror for award of the contract.
- (i) The failure of the Contractor to comply in good faith with (i) the Article of the JPL General Provisions entitled "Utilization of Small Business Concerns and Small Disadvantaged Business Concerns," or (ii) an approved plan required by this Provision and the Article of the JPL General Provisions entitled "Small Business and Small Disadvantaged Business Subcontracting Plan (SB/SDB PLAN)" shall be a material breach of the contract.